

Internal Revenue Service

Number: **200649003**

Release Date: 12/8/2006

Index Number: 1445.07-02, 9100.22-00

Department of the Treasury

Washington, DC 20224

[Third Party Communication:

Date of Communication: Month DD, YYYY]

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CC:INTL:B04

PLR-109278-06

Date:

September 06, 2006

In Re:

Legend

PRS1 =

PRS2 =

PRS3 =

PRS4 =

U =

V =

W =

X =

Y =

Z =

State =

Country =

Year =

Dear :

This letter responds to your letter dated January 31, 2006, and related correspondence, submitted on behalf of PRS1 and PRS2, requesting extensions of time under Treas. Reg. §§ 301.9100-1 and -3 to comply with the notice requirements of Treas. Reg. § 1.1445-5(b). The information submitted for consideration is set forth below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayers and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Prior to the transaction described below, PRS1 was a limited liability company organized under the laws of State and was classified as a partnership for U.S. federal income tax purposes. PRS1 was the sole general partner in PRS2, a limited partnership organized under the laws of State. PRS2 was classified as a partnership for U.S. federal income tax purposes. The members of PRS1 were V, W, X, Y, and Z. The limited partners of PRS2 were U, V, W, X and Z. V, W, X, and Y are foreign persons and the interests of PRS1 and PRS2 held by V, W, X and Y, were U.S. real property interests, as defined in section 897 of the Internal Revenue Code.

PRS3 is a limited liability company organized under the laws of State and is classified as a partnership for Federal income tax purposes. PRS3 is the general partner in PRS4, a limited partnership organized under the laws of Country, which is classified as a partnership for U.S. federal income tax purposes.

In Year 1, PRS1 merged into PRS3, with PRS1 terminating, and PRS2 merged into PRS4, with PRS2 terminating, in a series transactions pursuant to Treas. Reg. § 1.708-1(c). As a result of the merger of PRS1 into PRS3, V, W, X, and Y exchanged their interests in PRS1 for interests in PRS3. As a result of the merger of PRS2 into PRS4, U, V, W, and X exchanged their interests in PRS2 for interests in PRS4. The interests in PRS3 and PRS4 received by V, W, X, and Y, respectively, were U.S. real property interests the sale of which, immediately following the exchange, would be subject to U.S. taxation under section 897.

Following the merger, PRS3 and PRS4 hired their tax advisor to review the transaction. Although it was determined that no tax was required to be paid as a result of the transfers, under section 897, the tax advisor determined that, due to an oversight, PRS1 and PRS2 failed to file the required “notices of nonrecognition transfer” pursuant to Treas. Reg. § 1.1445-5(b)(2)(B)(ii). Accordingly, the tax advisor suggested that PRS1 and PRS2 seek relief under § 301.9100-3 to make the requisite filing as requested.

Treas. Reg. § 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time under the rules set forth in Treas. Reg. § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, Treas. Reg. § 1.1445-5(b)(2) provides the time to file certain notices. Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant PRS1 and PRS2 extensions of time, provided that PRS1 and PRS2 satisfy the requirements set forth in Treas. Reg. § 301.9100-3(a).

Based solely on the facts submitted and the representations made, we conclude that PRS1 and PRS2 satisfy the requirements of Treas. Reg. § 301.9100-3(a). Accordingly, extensions of time are granted until 60 days from the date of this ruling letter to comply with the notice requirements of Treas. Reg. § 1.1445-5(b)(2) with respect to each of the transfers by V, W, X, and Y, described above. A copy of this letter should be attached to each notice filed pursuant to Treas. Reg. § 1.1445-5(b)(2).

The granting of the extensions of time is not a determination that PRS1 or PRS2 were otherwise eligible to file a notice of nonrecognition transfer pursuant to Treas. Reg. § 1.1445-5(b)(2). In addition, the granting of the extension of time is not a determination as to whether the transfers were subject to tax under section 897.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Christopher L. Trump
Assistant to the Branch Chief, Branch 4
(International)

Enclosure
Copy for 6110 Purposes

cc: